



## Planning Commission Staff Report

TO: PLANNING COMMISSION

FROM: CATHERINE LORBEER, AICP, PRINCIPAL PLANNER  
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Handwritten signature of Catherine Lorbeer in blue ink.

THROUGH: LINDA EDWARDS, AICP, PLANNING MANAGER  
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MEETING DATE: MAY 7, 2014

SUBJECT: Z13-11, BEHAVIORAL HEALTH HOSPITALS: REQUEST TO AMEND THE LAND DEVELOPMENT CODE, CHAPTER 1 ZONING REGULATIONS, DIVISION 2 LAND USE DESIGNATIONS, ARTICLE 2.3 COMMERCIAL DISTRICTS, SECTION 2.303 LAND USE REGULATIONS, TABLE 2.303 LAND USE REGULATIONS – COMMERCIAL DISTRICTS, TO REQUIRE A CONDITIONAL USE PERMIT FOR HOSPITALS; ARTICLE 2.7 PUBLIC FACILITY/ INSTITUTIONAL DISTRICT, SECTION 2.702 LAND USE REGULATIONS, TABLE 2.702 LAND USE REGULATIONS – PUBLIC FACILITY/INSTITUTIONAL DISTRICT, TO REQUIRE A CONDITIONAL USE PERMIT FOR HOSPITALS; AND TO AMEND DIVISION 4 GENERAL REGULATIONS, ARTICLE 4.5 SUPPLEMENTAL USE REGULATIONS, TO PROVIDE SEPARATION REQUIREMENTS FOR HOSPITALS FROM CERTAIN OTHER USES; AND TO AMEND DIVISION 6 USE DEFINITIONS; ARTICLE 6.1 USE DEFINITIONS, TO REVISE THE DEFINITION FOR "HOSPITAL" TO INCLUDE FACILITIES OFFERING BEHAVIORAL HEALTH SERVICES.

INITIATIVE: Community Livability

Clarify the definition of Hospitals to include Behavioral Health Hospitals and provide a range of zoning districts where this use is permitted.

## **RECOMMENDED MOTION**

**FOR THE REASONS SET FORTH IN THE STAFF REPORT, MOVE TO RECOMMEND APPROVAL TO THE TOWN COUNCIL FOR Z13-11, A TEXT AMENDMENT TO THE LAND DEVELOPMENT CODE (LDC):**

**OPTION 1: TO CLARIFY THAT THE DEFINITION OF HOSPITAL INCLUDES BEHAVIORAL HEALTH HOSPITALS;**

**OPTION 2: TO REQUIRE A CONDITIONAL USE PERMIT FOR HOSPITALS; AND**

**OPTION 3: TO PROVIDE SEPARATION REQUIREMENTS FOR HOSPITALS FROM CERTAIN OTHER USES.**

## **BACKGROUND/DISCUSSION**

### **History**

| <i>Date</i>      | <i>Action</i>   |
|------------------|---|
| July 3, 2013     | Planning Commission discussed the proposed Behavioral Health Hospital text amendment and conducted the Citizen Review meeting, but did not initiate the text amendment. |
| December 4, 2013 | Planning Commission conducted a second Citizen Review meeting and initiated this text amendment.  |
| March 5, 2014    | Planning Commission discussed the proposed Behavioral Health Hospital text amendment and continued the case to the April 2, 2014 Study Session for further discussion.  |
| April 2, 2014    | Planning Commission held a Study Session to discuss the possible text amendments.   |

### **Overview**

This action item considers potential amendments to the Land Development Code (LDC) related to behavioral health hospitals per Town Council's request. Based on the public meetings held to date, three possible options have advanced for consideration to address concerns about compatible uses:

- 1) To modify the use definition for "Hospital" to specify that it includes behavioral health care services; and
- 2) To require approval of a conditional use permit for a "Hospital" in two Commercial zoning districts (General Commercial and Regional Commercial) as well as the Public Facility/ Institutional zoning district.
- 3) To add separation distances for hospitals from "Schools, Public or Private" and "Day Care Center" uses.

The Planning Commission may consider taking action to approve: Option 1 only; Option 1 and 2 only; or Option 1, 2, and 3; or to recommend denial of the text amendment to Town Council.

The Town Council requested that staff explore an amendment to the Zoning Code to address these types of facilities after a provider selected two commercial sites in Gilbert as potential locations for behavioral health

hospitals. In 2013, during the approval process for the two Design Review cases, town residents expressed several concerns regarding the placement of these facilities. Some of the most common concerns were:

- Patients will be unsupervised and will unknowingly leave facility
- Proximity to and too much visibility from facility to adjacent school(s)
- Decline/loss of economic development in general vicinity
- Unsatisfactory program completion rate of patients

Some town residents also supported the behavioral health hospitals and offered the following comments:

- Beneficial to residents as well as returning Veterans in need of behavioral care
- Many medical facilities do not have accompanying psychiatric treatment areas
- Patients are provided transportation and do not leave inebriated or intoxicated

### ***Zoning Interpretation***

The Zoning Administrator issued an interpretation for Saguaro Springs Behavioral Health Hospital on October 10, 2013. The formal interpretation responded to an applicant challenging the location of the proposed facility in the Regional Commercial (RC) zoning district. In making the determination, the Zoning Administrator considered and found that:

- 1) Arizona Department of Health Services (AZDHS) definitions and rules implicitly recognize that behavioral health facilities and hospitals are regulated and licensed as medical facilities without meaningful distinctions;
- 2) The proposed behavioral health hospital meets the definition and is substantially similar to a “Hospital” and “Medical Offices and Clinics” as those uses are defined in the LDC; and
- 3) The proposed behavioral health hospital is a permitted use in the Regional Commercial (RC) zoning district under the LDC.

As previously described in the March 5<sup>th</sup> Planning Commission staff report, Planning staff performed extensive research on zoning regulations related to behavioral health facilities within seven Arizona cities and three communities known to have these facilities in Colorado, Ohio and Texas (See Attachments 1 and 2). Staff determined that:

1. Most cities classify inpatient behavioral health facilities as hospitals. Chandler, Glendale, Phoenix, Scottsdale, Tempe and Tucson classify behavioral health inpatient facilities as hospitals and numerous hospitals incorporate behavioral health care units and services. They fall within the “hospital” use classification for land use and zoning purposes. Of the seven Arizona cities surveyed, only Prescott categorizes this use as “Assisted Living”.
2. These types of hospitals are permitted “by-right” in certain zoning districts and by use permit approval in other districts. As discussed below, Gilbert’s zoning code follows this same process.
3. None of the ten cities surveyed require any separation distances or special buffering from behavioral health facilities to other uses.
4. The Arizona Department of Health Services (AZDHS) Division of Behavioral Health Services defines Inpatient Services as follows: *Inpatient Services*. “A behavioral health service provided in a psychiatric acute hospital (including a psychiatric unit in a general hospital), a residential treatment center for persons under the age of 21, or a sub-acute facility.” Inpatient behavioral health services may be provided in a general hospital. Moreover, AZDHS has recently issued new rules integrating behavioral health licensing into medical facilities licensing, including hospitals.

5. Many hospitals contain behavioral health units or wards to provide these health care services in their facilities.
6. Data comparing police calls for service at general hospitals and behavioral health hospitals show that on average, general medical hospitals place more police calls than the behavioral health hospitals.

### **Option 1) Use Definition**

Both Planning Commission discussions and comments from the public have explored the idea of creating a separate definition for behavioral health hospitals. The Planning Commission debated potential definitions during their April 2, 2014 Study Session. At that meeting, one commissioner noted that existing hospitals may not need additional restrictions. Another commissioner was curious as to the security precautions hospitals provide, and whether they establish internal safety buffers. A third commissioner suggested that the behavioral health hospitals are perceived as entirely different from existing hospitals.

Some of the public's comments have focused on the desire for a separate definition for behavioral health hospitals, the security needs of these facilities, the alleged dishonest business practices of certain proprietors, and concern about the wide range of mental ailments treated at such facilities.

After listening to the public and commission member comments about a separate use definition and safety concerns, staff conducted further research about the limitations of zoning regulations and other legal implications. Although zoning may buffer or limit uses shown to be incompatible, such provisions are not intended to overly-regulate the way in which a business manages its operations or the persons to whom it provides service. Moreover, zoning may not be exercised in a manner that discriminates against persons with disabilities. State health care agencies and law enforcement groups are responsible for licensing and overseeing the operations, management and safety of health care facilities; functions that extend well-beyond the abilities of local zoning laws.

In evaluating the concept of a separate use definition, staff has considered the reasoning behind its determination that behavioral health hospitals are similar to general medical hospitals, and that they provide a valuable health care service to our residents. Staff has concluded that the only meaningful distinction between behavioral health hospitals and traditional hospitals is the ailments they treat. In addition, to the extent traditional hospitals also offer behavioral health care, establishing a separate definition for behavioral health hospitals could create an unworkable conflict of uses.

Staff also has concerns about whether separate definitions for hospitals and behavioral health hospitals will be consistent with federal law. For example, the Health Insurance Portability and Accountability Act (HIPAA) of 1996 protects the confidentiality and security of healthcare information, and the Americans with Disability Act (ADA) gives civil rights protections to individuals with disabilities, and in some instances requires reasonable accommodation. Adopting a separate definition for behavioral health hospitals may further stigmatize the use, may hinder the rights of patients to access care, and potentially even discriminate against members of the community. Therefore, staff is of the opinion that amending the "Hospital" use definition to include behavioral health care is the best approach for consistent and practical regulation of this use.

### **Option 2) Conditional Use Permit**

"Health Care Facilities, Hospitals" are currently shown as a conditional use in the Business Park (BP) and General Office (GO) zoning districts, and are permitted by right in General Commercial (GC), Regional Commercial (RC), and Public Facility/ Institutional (PF/I) zoning districts.



During the April 2, 2014 Study Session, the Planning Commission discussed the option of Conditional Use Permits (CUPs). One commission member asked whether the purpose of a use permit was to put specific conditions on a project, and if so, recommended that the Commission recommend the use of CUPs so that projects could be considered individually. Another commissioner asked whether land rights might be taken away if the Town were to add a CUP to all zones where hospitals are currently permitted by right. Staff concurs that yes, a text amendment further restricting the placement of hospitals could expose the Town to potential Prop. 207 claims, although the likelihood of such claims would be remote.

Should the Planning Commission be inclined to add requirements for CUPs, staff has prepared additional text amendment language adding a CUP for a “Hospital” in the two Commercial zoning districts (GC and RC) as well as PF/I.

The definition of a CUP, the applicable procedures and findings required for approval are outlined below:

***Excerpts from LDC Article 5.4 Use Permits:***

***Conditional Use Permit.*** A use permit approved by the Planning Commission for a use in specified districts based on a determination of compliance with standards set forth in the Base District Regulations and individual review of their location, design, configuration, intensity, and density of use or structures.

**Section 5.402B** requires the following:

***Conditional and Special Use Permits.*** The following procedures shall apply to applications for Conditional and Special Use Permits:

1. *Application*
2. *Public Notice*
3. *Staff Report*
4. *Public Hearing*
5. *Planning Commission Action*
6. *Appeal*

**Section 5.403C and E** read as follows:

***C. Finding Required for Approval of Conditional Use and Special Use Permits.*** The Planning Commission may approve a Conditional Use Permit or Special Use Permit as submitted or modified only upon making the following findings:

1. The proposed use will not be detrimental to health, safety, or general welfare of persons living or working in the vicinity, to adjacent property, to the neighborhood, or to the public in general;
2. The proposed use conforms with the purposes, intent, and policies of the General Plan and its policies and any applicable area, neighborhood, or other plan adopted by the Town Council;
3. The proposed use conforms with the conditions, requirements, or standards required by the Zoning Code and any other applicable local, State, or Federal requirements; and
4. The proposed use, as conditioned, would not unreasonably interfere with the use and enjoyment of nearby properties.

***E. Findings Required for Denial of Conditional Use and Special Use Permits.*** If the Commission is unable to make the required findings for approval, it shall deny the application, in which case the Chair shall state in writing the reasons for that determination.

### **Option 3) Separation from Sensitive Use Types**

During the April 2, 2014 Study Session, the Planning Commission inquired about implementing separation requirements, and how arterial roadways would factor into such measurements. The LDC utilizes separation requirements in various circumstances and for several purposes. One reason is to prevent clustering of uses in residential areas. In those instances, such as the case with Group Homes, such clustering might cause a change to the neighborhood setting if not separated from one another. Therefore, the Town requires that Group Homes be separated by at least 1,200 feet. Residential Day Cares are also separated from other Residential Day Cares on the same street by 300 feet to limit the impacts to neighbors from noise or traffic. Lastly, several uses classified as Non-traditional Business Uses are required to be at least 1,000 feet from each other to prevent concentration.

Other separation requirements reflect the relationship of a particular use to certain sensitive uses like Places of Worship, Schools, and Day Care Centers. To that end, Stand-alone Smoking Lounges and Tattoo/Piercing Studios must be at least 1,320 feet from any School, Public or Private, and Tattoo/ Piercing Studios must be at least 500 feet from any Day Care Center or Place of Worship. The heightened legal requirements for Medical Marijuana Facilities and Sexually-Oriented Businesses have created a host of separation requirements from various use types.

Separation requirements may be measured in one of two ways: a straight line in any direction from the perimeter business walls, or from the closest property line. Typically, no additional separation is required where uses are separated by a freeway, arterial street, canal, or railroad.

Using public input about sensitive uses and Geographic Information System (GIS) maps of existing zoning and uses, Staff reviewed the placement of 500 foot and 1,000 foot buffers around existing schools and day care centers to evaluate how each potential buffers would restrict hospital uses in current non-residential zoning districts. In both instances, the buffers eliminated the use of some vacant, non-residential lands for hospital uses. Business Park (BP) and Regional Commercial (RC) zoning districts appear to be the most limited by the buffer because of the lack of existing vacant parcels, but further study would be needed to quantify the extent of that loss. As additional schools and day care centers open within the Town, even more opportunity for hospital sites will be lost. The Commission should also keep in mind that much of the PF/I zoning district represents floodplain and open space areas, which are not currently suitable for development. The stars shown on the attached maps indicate the location of the two commercial sites where a behavioral health hospital received Design Review in 2013, but did not go forward. Under both the 500 foot and 1,000 foot separation requirement, one commercial site would be completely eliminated, and the other site would remain available for hospital use. Please see the maps under Attachments 3 and 4.

Should the Planning Commission be inclined to add separation distances for hospitals from certain sensitive uses, staff has prepared additional text amendment language that separates “Health Care Facilities, Hospitals” from “Schools, Public or Private” and “Day Care Centers” under Article 4.5 Supplemental Use Regulations, Section 4.5015 Miscellaneous Provisions.

### ***Other Relevant Health Care Information***

The World Health Organization defines health as “a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.” Health care services are a valuable part of the community and help address a wide variety of health-related conditions and illnesses. Gilbert is welcoming to business including the health care industry, as shown below in recent information provided by our Office of Economic Development:

- Through healthcare growth in the community, Gilbert has seen notable advancements in:
  - Stem Cell Therapy and Research
  - Oncology Therapy and Research
  - Cardiovascular Research
  - Regenerative Medicine
  - Medical Devices and Equipment
  - Pharmaceuticals/Nutraceuticals
- Gilbert provides abundant opportunities for collaboration, research and development, and development of intellectual properties.
- The community is conveniently located between two airports with commuting accessibility to 100,000+ healthcare practitioners and technicians.
- Over 2 million square feet of state-of-the-art hospital and clinical research facilities including Mercy Gilbert Medical Center; Banner Gateway Medical Center; and Gilbert Hospital.
- Approximately 300 acres of Gilbert commercial real estate earmarked for healthcare facilities and services.

### **Summary of Proposed Zoning Code Amendment**

Based on the characteristics of inpatient behavioral health care facilities, the types of activities that occur in conjunction with this use, and the research and findings summarized above, Planning staff concludes this use most closely resembles a hospital use classification.

The Planning Commission may consider taking action to approve: Option 1 only; Option 1 and 2 only; or Option 1, 2, and 3; or to recommend denial of the text amendments to Town Council.

#### ***Option 1.***

Planning staff proposes a text amendment to the Land Development Code's (LDC) Use Definitions. Article 6.1 Use Definitions is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

#### **Article 6.1 Use Definitions**

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#### **Health Care Facilities.**

*Hospital.* A facility licensed by the State of Arizona that provides HEALTH SERVICES INCLUDING diagnosis and treatment of patients and inpatient care by a medical staff. THIS USE INCLUDES BEHAVIORAL HEALTH HOSPITALS PROVIDING IN-PATIENT MEDICAL CARE FOR TREATMENT OF ADDICTIONS AND MENTAL ILLNESS.

#### ***Option 2.***

If the Planning Commission is inclined to recommend approval, Article 2.3 Commercial Districts, Section 2.303, Table 2.303 is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

**Table 2.303: Land Use Regulations – Commercial Districts**

| <i>Use Classification</i>                 | <i>NC</i> | <i>CC</i> | <i>SC</i> | <i>GC</i> | <i>RC</i> | <i>Additional Regulations</i> |
|---|-----------|-----------|-----------|-----------|-----------|-------------------------------|
| ***                                       |           |           |           |           |           |                               |
| Health Care Facilities<br><i>Hospital</i> | --        | --        | --        | UP        | UP        |                               |
| ***                                       |           |           |           |           |           |                               |

And Article 2.7 Public Facility/ Institutional District, Section 2.702 Land Use Regulations, Table 2.702 is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

**Table 2.702: Land Use Regulations – Public Facility/Institutional District**

| <i>Use Classification</i>                 | <i>PF/I</i> | <i>Additional Regulations</i> |
|---|-------------|-------------------------------|
| ***                                       |             |                               |
| Health Care Facilities<br><i>Hospital</i> | UP          |                               |
| ***                                       |             |                               |

### ***Option 3.***

If the Planning Commission is inclined to recommend approval, Article 4.5 Supplemental Use Regulations, Article 4.5015 Miscellaneous Provisions is hereby amended to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

#### **4.5015 Miscellaneous Provisions**

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**HEALTH CARE FACILITIES, HOSPITALS.** HOSPITALS SHALL BE SEPARATED A MINIMUM OF 500 FEET FROM ANY SCHOOL, PUBLIC OR PRIVATE AND ANY DAY CARE CENTER, AS MEASURED FROM THE CLOSEST PROPERTY LINES. NO SEPARATION IS REQUIRED WHEN A HOSPITAL IS SEPARATED BY A UTILITY RIGHT-OF-WAY OF AT LEAST 300 FEET IN WIDTH, OR BY A FREEWAY, ARTERIAL STREET, CANAL, OR RAILROAD.

#### **PUBLIC NOTIFICATION AND INPUT**

Two Citizen Review meetings were held on July 3, and December 4, 2013 and a public hearing was held on March 5, 2014. For the May 7, 2014 meeting, a notice of public hearing was published in a newspaper of general circulation in the Town, and an official notice was posted in all the required public places within the Town.

Staff has received written comments from the public on this proposed text amendment and verbal comments during the *Communications from Citizens* portion of the Planning Commission's Regular Meeting agenda on April 2, 2014.

#### **STAFF RECOMMENDATION**

For the following reasons: the proposed amendments 1) will clearly identify inpatient behavioral health care as a type of hospital, thus ensuring that Gilbert provides locations for this type of health care facility; 2) will address issues of compatibility of hospital uses through a conditional use permit; and 3) will separate

hospital uses from the sensitive uses of schools and day care centers; the Planning Commission moves to recommend approval to the Town Council for Z13-11, a request to amend the Land Development Code:

Option 1: To clarify that the definition of hospital includes behavioral health hospitals;

Option 2: To require a conditional use permit for hospitals; and

Option 3: To provide separation requirements for hospitals from certain other uses.

Respectfully submitted,



Catherine Lorbeer, AICP  
Principal Planner/ Zoning Administrator

**Attachments:**

1. Hospital Comparison
2. Police Calls for Service Comparison
3. Separation Map with 500 foot buffer
4. Separation Map with 1,000 foot buffer
5. Minutes of the Planning Commission Study Session and Regular Meeting, dated April 2, 2014

## HOSPITAL COMPARISON (General vs. Behavioral)

| MUNICIPALITY | DEFINITION   | Buffer Zone Requirement   |
|--------------|--|---|
| Gilbert      | A facility licensed by the State of Arizona that provides diagnosis and treatment of patients and inpatient care by a medical staff.   | <b>None.</b> Permitted by right in GC, RC and PF/I districts. GO & BP with Conditional Use Permit.  |
| Tempe        | Hospitals, Sanitariums, and Nursing Homes- Any <i>building</i> used for one (1) or more of the following uses <i>shall be not less than fifty (50) feet from the lot line of any adjoining property</i> : <i>Hospitals</i> or sanitariums for the treatment of human ailments, nursing or convalescent homes, orphanages, and <i>institutions for the mentally disabled, epileptic, drug or alcoholic patients</i> ; homes for the aged, without cooking facilities in individual <i>dwelling</i> units; and related institutions of an educational, religious, or philanthropic nature. | <b>None.</b> AG and MF with Use Permit and special standards or limitations.<br>All commercial districts with Use Permit and special standards or limitations. Allowed in MU-3, MU-4 and MU-Ed with Use Permit and special standards or limitations.<br>Permitted in office/industrial zoning districts with Use Permit and special standards or limitations. |
| Chandler     | Hospital: Unless otherwise specified, the term "hospital" shall include "sanitarium," "preventorium," "clinic," "maternity home" or "rest home" and shall be deemed to mean a place for treatment or other care of human ailments.   | <b>None.</b> Permitted in C-1, C-2 and C-3 zoning districts. Permitted with a use permit under Planned Commercial Office (PCO). Must be a minimum of 1,320 feet away from a medical marijuana facility. Chandler does require that behavioral homes be at least 1,200 ft away from another <b>group</b> home.   |
| Glendale     | Hospital: A medical facility for the diagnosis and treatment of human patients including overnight housing of patients.  | <b>None.</b> A permitted use under the General Office (GO) district only. Permitted with a conditional use permit under the Glendale Centerline Overlay District. Hospitals are regulated by existing zoning laws and are subject to existing setback requirements.   |
| Scottsdale   | <i>Hospital</i> shall mean a facility for the general and emergency treatment of human ailments, with bed care and shall include sanitarium and clinic but shall not include convalescent or nursing home.   | <b>None.</b> Allowed in Commercial Office (C-O) with a conditional use permit. Allowed in Downtown Medical, Multiple Use, and Regional Use sub districts (DM-2, DMU-2 and DRU-2). Governed by existing setback requirements (100ft).  |
| Phoenix      | <i>Hospital</i> : An institution which is licensed by the State of Arizona to provide in-patient and out-patient medical care, diagnosis, treatment or major surgical services for persons suffering from illness, injury or deformity or for the rendering of obstetrical or other professional medical care. A hospital may include such related facilities as laboratories, medical testing services, central service facilities, staff   | <b>None.</b> Allowed in C-1 with Use Permit. Allowed in C-2, C-3 and Industrial by-right. Governed by existing setback requirements (25ft)  |

## HOSPITAL COMPARISON (General vs. Behavioral)

|                |  |  |
|----------------|--|--|
|                | offices and volunteer community blood centers (non-profit only). The term "hospital" shall not be construed to include the office of a physician or practitioner.  |  |
| Tucson         | Medical Service – Major: Provides inpatient medical care which may also include outpatient service as an ancillary activity. Typical uses include hospitals, psychiatric hospitals and detoxification centers.   |  |
| Prescott       | Medical Facilities: Medical facilities include uses providing medical or surgical care to patients and offering overnight care. Examples include Hospitals, Trauma Centers and Medical Centers. Exceptions: Uses that provide exclusive care and planned treatment or training for psychiatric, alcohol, or drug problems, where patients are residents of the program, are classified in the Assisted Living category | <b>None.</b> Allowed in BG (Business General), BR (Business Regional), and IT (Industrial Transition) districts, which are all allowed by right zoning districts. Governed by existing setback requirements. |
| Louisville, CO | <i>Hospital</i> means any building or portion thereof used for diagnosis, treatment and care of human ailments; but does not include medical clinics, rest homes, convalescent homes, nursing homes and retirement homes.  | <b>None.</b> Hospitals are allowed by right within specific zoning districts. All hospitals, clinics, and medical facilities are governed by existing setback requirements for given zones. (30ft).          |
| Carrollton, TX | Hospital: An institution or place where sick or injured in-patients are given medical or surgical care either at public or private expense.  | <b>None.</b> Group homes are subject to buffer requirements from other <b>group</b> homes.   |
| Dublin, OH     | HOSPITAL. Any facility in which in-patients are provided diagnostic, medical, surgical, obstetrical, psychiatric, or rehabilitation care for a continuous period longer than 24 hours, or a medical facility operated by a health maintenance organization.  |  |
|                |  |  |

The comparison of hospital use definitions in Arizona communities indicates that the vast majority of communities (7 of 8) include behavioral health under the definition of a hospital

May 7, 2014

## DATA COMPARING POLICE CALLS AT GILBERT AREA HOSPITALS AND THREE BEHAVIORAL HEALTH HOSPITALS:

### *General Medical Hospital*

| <b>Hospital</b>  | <b>Size</b>     | <b>Police calls per month</b> |              |            |                   |  |
|------------------|-----------------|-------------------------------|--------------|------------|-------------------|--|
|                  | <i>No. Beds</i> | <i>March</i>                  | <i>April</i> | <i>May</i> | <i>3 mo. Avg.</i> |  |
| Mercy Gilbert    | 212             | 14                            | 14           | 17         | 15                |  |
| Banner Gateway   | 177             | 13                            | 19           | 23         | 18.3              |  |
| Gilbert Hospital | 19              | 3                             | 7            | 6          | 5.3               |  |

### *Behavioral Health Hospital*

| <b>Hospital/Location</b>  | <b>Size</b>     | <b>Average Police calls per month</b> |
|---------------------------|-----------------|---------------------------------------|
|                           | <i>No. Beds</i> | <i>14 to 21 mos.</i>                  |
| Carrollton Springs/ Texas | 45              | 3                                     |
| Dublin Springs/ Ohio      | 72              | 4                                     |
| Sycamore Springs/ Indiana | 48              | 5                                     |

On average, General Medical Hospitals place more police calls than the listed behavioral health hospitals. These numbers reflect the percentages relative to the number of beds each facility has equipped. Here are the percentages:

#### **Individual Hospitals:**

Mercy Gilbert – 8.2%

Banner Gateway – 9.2%

Gilbert Hospital – 38%

#### **Hospital Aggregate:**

Of 408 total beds, a rate of 9.4% calls are placed to the police department.

#### **Behavioral Hospitals:**

Carrollton Springs, TX – 6.6%

Dublin Springs, OH – 5.5%

Sycamore Springs, IN – 10%

Behavioral Hospital Aggregate: Of 165 total beds, a rate of 7.2% calls are placed to the police department.



## **Summary of Data Collected**

### **Springstone Behavioral Health Facilities**

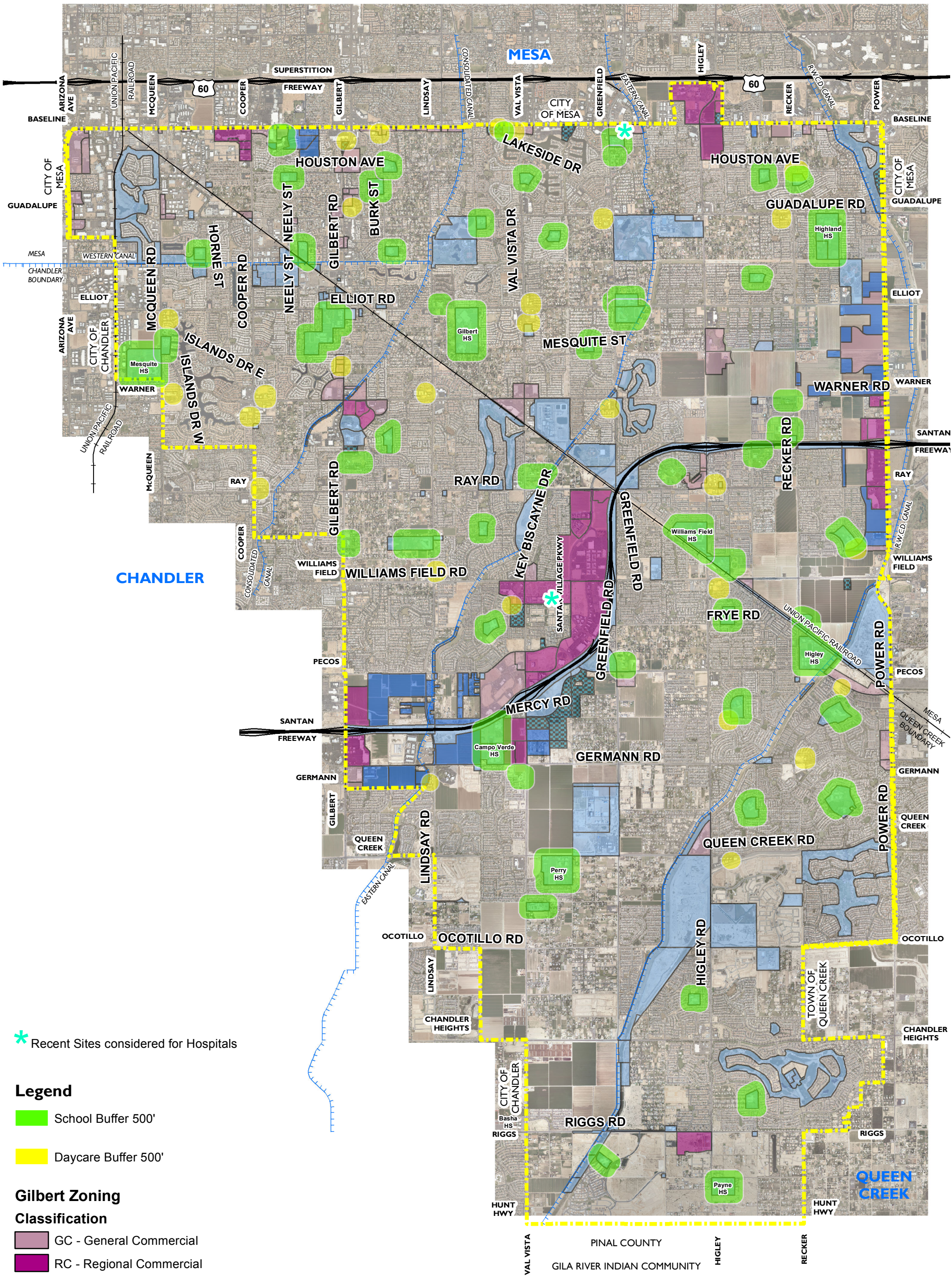
Carrollton Springs in Carrollton, Texas has been operating as a Springstone facility since January of 2012. It was owned by a different company prior to that. Data reflects only the time period that this facility was operated by Springstone. There were 69 calls for service from January 2012 through approximately October 15, 2013 (approx. 21 months). The calls included investigations (NFI), disturbance conflicts, assisting the fire department, and welfare checks. No data regarding the surrounding area was received. Average of three calls per month to facility. Calls for service within one mile of the facility have remained stable from January 2011 through October 2013 with approximately 100 calls for service per month.

Dublin Springs in Dublin, Ohio opened in August 2012. They have had 61 calls for service to the facility since that time. This is an average of approximately four calls per month. The calls varied in type but included police being called for mental patient issues such as thinking they were being held hostage, or wanting to leave but were not allowed by doctor's orders. Calls also included EMS runs, where PD assists EMS by going along on patient runs. There were seven suicide attempt calls and six calls for patient disturbance. Out of the 61 calls, nine reports were generated. For the district which includes the facility, in the year prior to the facility opening, there were 70.8 calls for service per day and in the period after the facility opened, there were 69.75 calls per day. No increase in calls for service after the facility opened.

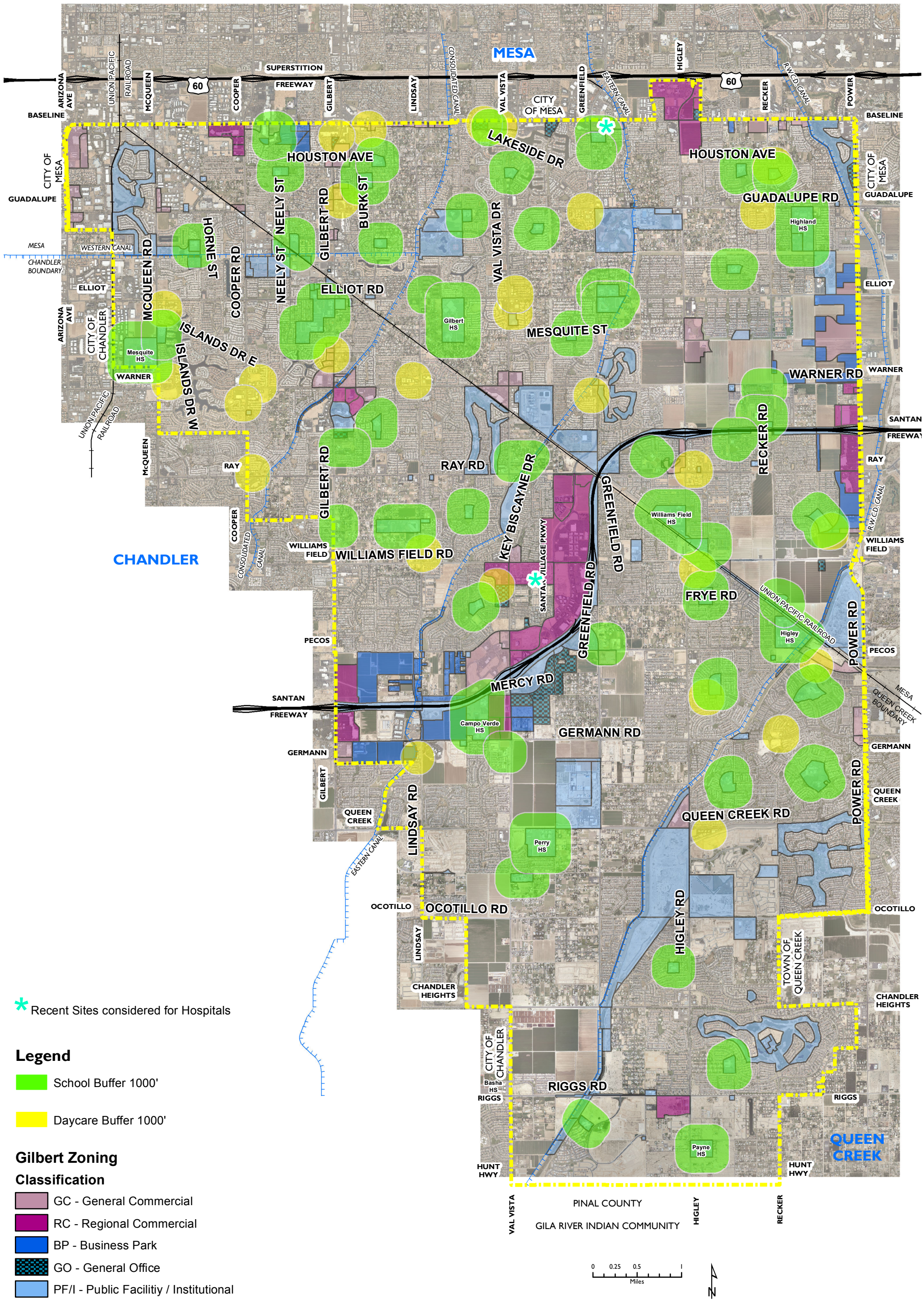
Sycamore Springs in Lafayette, Indiana opened in January of 2012. In the 20 months of operation, there have been 97 calls for service to the address, an average of approximately five per month. Calls for service related to medical problems make up 55% of the calls made to the facility. Welfare checks, 911 unknown, hit and run accidents, suicidal subjects and mental problems are other types of calls received from the facility. For the surrounding one-mile area, there were 9,169 calls for service. For that same area, in the period prior to the facility opening (Jan 2010 to Oct 2011), there were 6,911 calls for service. While there was a substantial increase in calls for service (75%) after the facility opened, with only 97 calls to the facility itself, a correlation between the operation of the facility and increased calls for service cannot be made.

In the three jurisdictions from which data was received, the presence of a Springstone behavioral health facility appears to have had no impact on calls for service in the areas surrounding the facilities.











**Attachment 5: Minutes of the Planning Commission  
Study Session and Regular Meeting, dated April 2, 2014  
May 7, 2014**

Residential 1 – 2, zoning SF – 10 with a PAD, 20 lots proposed, that all lots exceed 16,000 ft.<sup>2</sup>. The amendments to the standards of the SF- 10 are as follow:

- Reduction in the lot width by 1 foot for 6 lots east of the common area and for lot 20, due to placement of current infrastructure.
- Reduction in the side setback from 10' and 10' to 10' and 9'. Staff considers this a function of the proposed deviation above.
- Deviation from LDC Section 2.104.B, which limits the height of the units backing onto the Regional Commercial (RC) zoning district to single-story. Staff can support if the Assisted Care Facility currently in the pre-application stage is in fact the use that will be developed to the north. Staff also considers a mitigation factor to be the lots depth; however, staff is of the opinion that it is necessary to maintain the current minimum rear setback dimension of 40' (SF-35) instead of the 30' (SF-10) for any two-story house built along the northern boundary.
- Deviation from the required separation fence of 8 feet in height (LDC 4.109.A.1.c) to maintain the existing 6' high masonry wall. Staff recommends the LDC provision to be implemented to the portion not built and currently laid with chain link fence along the east and northeast of the site. Compliance with this requirement will require coordination with the private property to the east and northeast of the subject site.

Planner Cadavid noted that there was a gap in the fence on the Southeast portion on the site and staff has asked the applicant to coordinate with the owner of that property and build the fence that the code requires which is 8 feet. Planner Cadavid displayed photos of the subject site. She noted that she attended the neighborhood meeting and there was very positive response from those who attended.

Commissioner Peterson asked for clarification on the gap in the fence.

Planner Cadavid said that her understanding was that it was a portion abutting the orchard that belongs to a neighbor. She said that it needed to be built to code and with masonry and that presently it was a chain-link fence.

Commissioner Peterson said that it would be odd to build in that section with 8 foot fence if the rest is 5 feet.

**Z13-11 - Behavioral Health Hospitals: Request to amend the Town of Gilbert Land Development Code, Division 6 Use Definitions, Article 6.1 Use Definitions, related to revising the definition for "Hospital" to include "behavioral health services".**

Senior planner Mike Milillo stated that Z13-11 was a case that was on the Planning Commissions agenda last month but after discussion it was decided that it would be continued to the current study session. At the March 5, meeting the Commissioners asked for another option to review as part of the text amendment. Mr. Milillo stated that there are two options which will be presented to the Commission with a potential 3<sup>rd</sup> option which could be added. Previously staff presented a modification to the use definition of hospital to specify that the hospital definition in the LDC includes behavioral health care services, specifically inpatient care. The options that have been added for the Commissions consideration is to also require approval of a conditional use permit for a hospital in two commercial zoning districts which would include General Commercial (GC) and Regional Commercial (RC) districts as well as Public Facility/Institutional (PFI) zoning districts. The other districts where hospitals are allowed already require a conditional use permits. It would be adding the requirement for a conditional use permit to those three other zoning categories. There were two public Design Review Board hearings on specific proposals for behavioral health care hospitals. The first one was on Baseline Road and Quinn Avenue and that site was zoned GC and so did not require any type of zoning action or conditional use permit because it is permitted by right in that zoning district. The second application, which was for the same facility as the first one, failed and was for the same behavioral health hospital located just south of Williams Field Road and west of Santan Village Parkway, also a GC zoning district. The Town Council, after the two Design Review Board hearings requested that staff and the Planning Commission consider potential amendments to the LDC code

related to behavior health hospitals. In July 2013 the Planning Commission heard the proposal in the first study session with a second study session in December 2013 where the Commission discussed the proposals in detail during both of those sessions. Last month the case was continued to the current meeting. Planner Milillo displayed an exhibit that was a summary of the text amendment that was before the Planning Commission. There was a revised hospital definition which was included originally when brought before the Commission last month. They typically show in all Capital letters the additions to the definition which is as follows:

*Hospital.* A facility licensed by the State of Arizona that provides HEALTH SERVICES INCLUDING diagnosis and treatment of patients and inpatient care by a medical staff. THIS USE INCLUDES BEHAVIORAL HEALTH HOSPITALS PROVIDING IN-PATIENT MEDICAL CARE FOR TREATMENT OF ADDICTIONS AND MENTAL ILLNESS.

Planner Milillo said that the 2<sup>nd</sup> portion that staff understood that the Planning Commission wanted to see was as follows:

*The “Hospital” use classification will be designated “U” designating that it requires a Conditional Use Permit pursuant to Article 5.4: Use Permits, in the General Commercial (GC), Regional Commercial (RC) and Public Facility/Institutional (PF/I) zoning districts.*

Planner Milillo commented that conditional and special use permits as stated in the code, article 5.4, talks about the details of all types of use permits including administrative, conditional and special use permits; this portion was just related to conditional and special use permits. The following procedures are applicable:

1. *Application*
2. *Public Notice*
3. *Staff Report*
4. *Public Hearing*
5. *Planning Commission Action*
6. *Appeal*

An application must be made to the Town and there must be public notification that would that would include 300 feet around the specific application in addition to signage and adds. There would be a staff report prepared after staff analyzes the conditional use permit application and there would be a public hearing before the Planning Commission. The Planning Commission would take action and there would be opportunities for an appeal. It is a multistep process and there is a lot of analysis and review that goes into it. Planner Milillo said that in terms of use permit approval they do require findings and the Commission may only approve a use permit upon making specific findings which are as follows:

1. The proposed use will not be detrimental to health, safety, or general welfare of persons living or working in the vicinity, to adjacent property, to the neighborhood, or to the public in general;
2. The proposed use conforms with the purposes, intent, and policies of the General Plan and its policies and any applicable area, neighborhood, or other plan adopted by the Town Council;
3. The proposed use conforms with the conditions, requirements, or standards required by the Zoning Code and any other applicable local, State, or Federal requirements; and
4. The proposed use, as conditioned, would not unreasonably interfere with the use and enjoyment of nearby properties.

Planner Milillo commented that the Planning Commission goes through the findings to make sure that each individual case meets those findings and conditions can be added to the particular use permit application. If they find for whatever reason that one of the findings is not met they can add conditions to help mitigate

any potential impact. Staff performed a great deal of research as part of this project which was started in late spring of 2013. Mr. Milillo displayed an exhibit that stated the following information:

- One out of four adults in the United States has a mental health issue ranging from depression and anxiety to chronic mental illness. (Center for Disease Control)
- One in 17 people, approximately 6% of the US population suffers from a seriously debilitating mental illness. (National Institute of Mental Health)
- Depression affects nearly one in 10 adults each year, nearly twice as many women as men.
- Mental illness results in more disability in developed countries, such as ours, than any other group of illnesses including cancer and heart disease.

Planner Milillo stated that the Economic Development Division looked at what healthcare means to the town and that has been included in the Commissions packet. Gilbert tries to welcome businesses that have some aspect of healthcare because it is a very important part of the Town's strategic economic development initiative. Also as part of staff's research they have compared the hospital definitions of seven Arizona cities. They also did a call for services comparison and had it checked by the Gilbert Police Department. Police calls for services appear to be higher at regular hospitals. The Zoning Administrator was asked to make an interpretation in the fall of 2013 and as part of preparing that data performed additional research and found that the Arizona Department of Health Care Services definitions and rules implicitly recognize that behavioral healthcare facilities are really the same as hospitals and that there is really no meaningful distinction in their rules and definitions. The Town has determined that they meet the definition and are substantially similar to hospitals and medical offices and clinics. The Planning Commissioners stated at the last meeting that they wanted to see other options. Planner Milillo displayed an aerial map of Gilbert and noted that one of the things discussed was separation buffers/distances between hospitals and sensitive uses which most likely include day care centers, preschools as well as public and private schools. He noted that the map showed the 1000 foot separation buffers around all of the schools and day care centers. A map of central Gilbert was displayed and the various zoning districts were noted. Planner Milillo said that the next steps would be to integrate the Planning Commissions comments and integrate them into the text amendment and possibly bring it back to the next Planning Commission meeting in May.

Chairman Wittmann said that if they look at adding some separation requirements would they be similar to those that have been adopted for other types of uses.

Planner Milillo said that was correct and they would use the same definition.

Vice Chairman Oehler asked how the buffering would affect the RC where it is by right. How can they put a buffer with something by right?

Planner Milillo said that part of staff's proposal is to modify the RC where it is currently permitted by right to require a conditional use permit. On top of that this would add a separation distance. If a behavioral health hospital wanted to locate next to Mercy Gilbert Hospital for example, they would be precluded from locating there because it is within the 1000 foot separation buffer. In that case staff would most likely not even accept the application.

Vice Chairman Oehler said he did not know what the effect would be if they are changing the code and taking away rights of land.

Planner Milillo said that there may be some implications regarding Proposition 207 and that he would need to defer to the Town Attorney on that issue.

Town Attorney Michael Hamblin said that it would be a concern. Proposition 207 provides that zoning that reduces property value has to be reimbursed by the zoning entity under certain conditions. That is something that they would be happy to look at.

Chairman Wittmann asked how that would be any different than some of the other use restrictions that they already have in place in separation requirements for other uses.

Attorney Hamblin responded that someone would have to sue and say that “I was intending that and then applied for the use permit and it was denied.” It would be somewhat of a stretch but in general principle if you do change the zoning without the consent of the property owner in such a way that it restricts their uses and lowers their property value then the government would have to reimburse that.

Commissioner Powell stated that staff has done a great deal of research on the amendment but that he would like to make a suggestion. He said that he did not think that it was necessary to add another restriction onto legitimate hospitals. He said that he knew that behavioral hospitals were legitimate hospitals; however, he was referring to standard public health hospitals. By adding the conditional use permit to all categories of hospitals is beyond what they were asking. Commissioner Powell said that he made some suggestions at the last meeting but that he was not suggesting that they add a restriction to hospitals. In addressing just behavioral health hospitals, he believed they could overcome placing restrictions on standard hospitals by addressing a separation in definition. He said that he would like to see a separation in definition. Regardless of what others are doing and how they interpret or defined hospitals it makes sense to have a separate use definition for behavioral health hospitals. They have conditional use permits required for hospitals that go into employment districts and business Park districts. There are multiple areas all over town where behavioral health hospitals can locate without being restricted so he did not believe they were restricting any property rights or ability for behavioral health hospitals to locate in the town. Commissioner Powell said that he would propose that they draft a separate use definition for behavioral health hospitals and simply require a conditional use permit for them along with a standard limitation that simply says “regardless of the mindset of the Planning Commission that they have a standard limitation that is applied behavioral health hospitals.” Regardless of the statistics or the number of police calls or all of the circumstantial evidences that may be out there what they are hoping to accomplish is the ultimate protection from anyone being injured. Who’s to say that in the future that there might not be this one singular event that might cause them to regret not considering a fixed boundary separation? If they do consider that, they would probably not have that possible regret if there were to be an incident.

Chairman Wittmann asked if legal counsel could provide any insight as to if there were a reason or justification for grouping hospitals together under the use category.

Attorney Hamblin said that they have not done the specific research yet with regard to how the Americans with Disability Act apply to the classifications that are being considered. People who are disabled, which include those who are mentally ill, can obtain reasonable accommodations or services. When the issue is discussed more fully they will be able to better address the limitations, if any, on the zoning for behavioral health hospitals.

Commissioner Peterson said that they also need to keep in mind since they have three hospitals already in place, what happens if one of those hospitals already has a behavioral wing that they are not aware of or decides to put in a behavioral wing in the future and how that would affect them. She commented that a methadone clinic can be opened inside of a hospital because they are providing treatment to a patient. They need to make sure that all those factors are considered for the current hospitals and anyone who might want to open in the future.

Chairman Wittmann said that she believed that for existing hospitals they would be grandfathered in if any code amendment was proposed.

Commissioner Bloomfield said that if a behavioral health Center was put inside an existing hospital what kind of separation or barriers to access would they provide within that. He said that it seemed logical that if

they took into consideration what kind of precautions were taken by the hospital, being in that industry and changing the kind of patients that they would be taking care of between the different wings of the hospital. He questioned whether there is a separation barrier there that would provide some sort of safety buffer. He said that he agreed that staff had spent a lot of time researching the issue and that in staff's presentation they brought up the change in what they wanted the code to say as far as defining a hospital but as far as addiction recovery and mental illnesses it didn't seem to be addressed throughout the presentation as far as that designation of addiction. He said that he believed there was a public perception that behavioral health was one thing and addiction might be another and it creates different anxieties in people. He said that he felt that might be something that should be addressed as well.

Planner Milillo said that was a good point. In the research that they have done they did contact each one of the hospitals in Gilbert and each one deals with in a little differently. Mercy Gilbert does not have a ward or unit for behavioral health care. Banner does not have a unit or ward but sends patients to a behavioral health hospital located in Scottsdale. The only other hospital that Gilbert has, contracts the service out. It is provided in the hospital but is contracted out to doctors that do not normally work in the hospital. Each hospital deals with behavioral health care in a different fashion.

Commissioner Blaser said that he would suggest that they move forward with the conditional use permit without the restriction and that each case be considered on an individual basis. He commented that he had some experience in doing work at behavioral health hospitals and that precautions taken inside at the Banner behavioral health hospital in Scottsdale make it one of the safest places to be. He said that he would propose that they approach each project or development on an individual basis under the conditional use permit process.

Commissioner Powell said that he saw a lot of similarities between how they managed the behavioral health hospitals with sober homes. They had spent approximately a year discussing the context and the overall management of sober homes and in that process it was determined that residents who are recovering from alcohol and drugs should not exceed 10 per dwelling and that there be a separation distance of 1320 feet. One of the reasons for that was so they did not congregate people who were rehabilitating. The same applies, in his opinion, to a behavioral health hospital. The behavioral health hospital is not necessarily an extension of a standard public hospital. The behavioral health hospital is a business that specializes in the medical care and management of drug and chemical and alcohol abuse and mental issues. This is the focus of their business. If they allow a behavioral hospital to develop in any one particular area he imagined that they may have 75 or 100 residents all congregating and that is the reason that they need to carefully separate this. Commissioner Powell said that he was not interested in penalizing standard hospitals and with the Town's growth they will need more hospitals and those hospitals should not have to fear being prequalified because of a behavioral health issue or wing or small portion of the hospital that might apply to that. He said he was entirely against any restrictions on standard hospitals and that they just need to focus everything on the institution or business that specializes in and wants to have a separate facility for behavioral health.

Chairman Wittmann asked Commissioner Powell if he was proposing that the behavioral health be classified by itself and that any existing or proposed future hospitals, if they have a behavioral health wing included within the hospital, that they are considered separately and solely based on their general use.

Commissioner Powell said that was correct. He said that it is the one, 2 or 3 businesses that specifically cater, promote and manage these crises situations for people that have special needs and not general hospitals.

Chairman Wittmann asked Commissioner Powell if he was thinking that behavioral health hospitals should be separated from each other as well.

Commissioner Powell said that he had never really considered that because if he was in that business it would not be sensible to position himself right next to someone else so that had never occurred to him. He did say that parks should be considered as part of the issue as children were who he was hoping to protect.



Commissioner Bloomfield said that after hearing the information presented by staff in terms of their research at other hospitals and how they deal with behavioral health it gives an indication that perhaps Commissioner Powell is onto something and that they should create their own definition for what a behavioral health hospital is rather than lump it in with a hospital. They should create its own designation so that when a case comes before them it is judged on its own merits. It is a totally different type of use in the way it is perceived in the public, at least in his mind.

Chairman Wittmann said that she had several comment cards from residents who wish to speak on the issue. She said that typically in study sessions the public is not invited to speak and that it is not noted for public comment or discussion on the agenda.

Attorney Hamblin commented that if it is not on the agenda it should not be discussed and the public should not be invited to speak.

Chairman Wittmann the following names for the record from the comment cards received.

Amy Peterson, Gilbert, AZ was present and wanted to speak.

Patricia Baker, Gilbert, AZ was present and wanted to speak in opposition to the item.

Christine Leavitt, Gilbert, AZ was present in opposition to the item.

Commissioner Peterson asked who would be handling the case in the future.

Planning Manager Linda Edwards said that Principal Planner Katherine Lobeer would be handling the case and would be available to meet with members of the public.

#### **Discussion of Regular Meeting Agenda**

Vice Chairman Oehler said that they would move item 13, UP14-02 to the Public Hearing Non-Consent Agenda and item 15, GP14-03 and 16, Z14-05 to the Public Hearing Consent Agenda.

#### **ADJOURN MEETING**

Study Session Meeting adjourned at 6:10 p.m.

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**Chairman Jennifer Wittmann**

**ATTEST:**

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**Recorder Margo Fry**

**TOWN OF GILBERT  
PLANNING COMMISSION REGULAR MEETING  
GILBERT MUNICIPAL CENTER, 50 E. CIVIC CENTER DRIVE, GILBERT ARIZONA  
APRIL 2, 2014**

**COMMISSION PRESENT:** Chairman Jennifer Wittmann  
Vice Chairman Joshua Oehler  
Commissioner Brigitte Peterson  
Commissioner David Blaser  
Commissioner Carl Bloomfield  
Alternate Khyl Powell

**COMMISSION ABSENT:** Commissioner Kristofer Sippel  
Commissioner David Cavenee

**STAFF PRESENT:** Planning Services Manager Linda Edwards  
Principal Planner Catherine Lorbeer  
Senior Planner Mike Milillo  
Senior Planner Maria Cadavid  
Planner Amy Temes  
Planner Curtis Neal  
Planner Nathan Williams  
Traffic Engineer Eric Guderian

**ALSO PRESENT:** Town Attorney Michael Hamblin  
Town Attorney Jack Vincent  
Town Council Member Jenn Daniels  
Recorder Margo Fry

| <b>PLANNER</b>    | <b>CASE</b> | <b>PAGE</b> | <b>VOTE</b> |
|-------------------|-------------|-------------|-------------|
| MARIA CADAVID     | S13-14      | 3           | APPROVED    |
| AMY TEMES         | S14-01      | 4           | APPROVED    |
| CATHERINE LORBEER | UP13-24     | 4           | APPROVED    |
| MARIA CADAVID     | UP14-01     | 4           | APPROVED    |
| MIKE MILILLO      | Z14-02      | 5           | APPROVED    |
| MIKE MILILLO      | GP14-03     | 5           | APPROVED    |
| MIKE MILILLO      | Z14-05      | 5           | APPROVED    |
| NATHAN WILLIAMS   | UP14-02     | 6           | APPROVED    |
| MIKE MILILLO      | Z13-04      | 12          | APPROVED    |

**CALL TO ORDER:**

Chairman Wittmann called the meeting to order at 6:30 p.m.

**ROLL CALL**

Ms. Fry called roll and a quorum was determined to be present.

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## **APPROVAL OF AGENDA**

Chairman Wittmann asked if there was a motion to approve the Consent Agenda.

**A motion was made by Vice Chairman Joshua Oehler and seconded by Commissioner Brigitte Peterson to approve the Consent Agenda with the following changes: move item 13, UP14-02 to the Non-Consent Agenda and move items 15, GP14-03 and 16, Z14-05 to the Consent Agenda.**

**Motion carried 6 – 0**

## **COMMUNICATIONS FROM CITIZENS**

At this time members of the public can comment on items not on the agenda. The Commission's response is limited to responding to criticism, asking staff to review a matter commented upon or asking that the matter be put on a future agenda.

Chairman Wittmann opened the public hearing and asked if there was anyone present who wished to speak under those terms.

Amy Peterson, Gilbert Arizona, came forward. Ms. Peterson said that the discussion in the previous study session had brought forward a lot of issues that she wanted to address. She said that there was a company called Springstone Saguaro who was an out-of-state, nonprofit behavioral health hospital which could not be compared to a Banner Health wing and could not be compared to a regular hospital. She said that in reference to Commissioner Blasens comment about the utmost security in those hospitals it cannot be compared to what Springstone Saguaro was trying to bring. They were going to locate in the vacant parcel on Quinn and Baseline next-door to Pioneer Elementary School. This would have been 75 feet away from the school's 4 foot chain-link fence children's playground. By right they were allowed to do that. Ms. Peterson said that she had all the reports from the police departments that responded to all of the behavioral health hospitals that Springstone Saguaro owns and operates in other states. She said that she had stacks of reports and that was what they were talking about putting next to an elementary school. She said that they do need greater security buffers for those types of facilities and they absolutely need to be specified in their own classification. A behavioral health hospital is separate from a standard hospital. She said that she sat in meetings with the Town Council and no one thought that it was a good idea but everyone's hands were tied and that was why she was present currently trying to get changes made. A use permit is much better than the recommendation that came before the Commission last month which was to keep it as it was and move forward to include behavior health hospitals and basically allow what they had fought so hard to stop. Ms. Peterson said that Commissioner Powell took the words right out of her mouth and they absolutely have to have a separation distance. This is never going to be a good idea especially for an out-of-state for-profit behavioral health hospital because what motive and incentive do they have. They do not have the interests of the community and their patients as their interest is to their shareholders. She said that she agreed with the idea of a use permit because at that point the Planning Commission has a lot of really serious questions to ask. She said that she had a list of questions to share that came from Randy Gray, the president and CEO of Marc, the largest nonprofit behavioral health hospital which serves over 9000 people in the East Valley. Ms. Peterson said that this has nothing to do with being opposed to mental health hospitals and that she absolutely supported it and believe there was a need for it. She commented that she agreed 100% with what was said by Commissioner Powell and that she would like to see behavioral health hospitals have their own special use definition, a special use permit and a separation buffer and anything less is unacceptable.

Christine Leavitt, Gilbert, Arizona came forward. Ms. Leavitt said that she also got involved in this issue when Saguaro Springs was planning to be built next to the elementary school. What was proposed to be built was between a 70 and 100 bed mental type institution that would take anyone from depression to panic attacks, hallucinations, sexual impulse control disorder and also an outpatient methadone clinic that

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would be built as part of the facility. One of the issues was that they have for-profit institutions under the behavioral health type facility and they are just answering to shareholders not to the community. Ms. Leavitt said that when they were dealing with that institution they called the liaison between the behavior help hospital and the Town Council and that he was completely dishonest, telling the Council that none of their patients had ever escaped. When the incident reports were looked at it was found that they had multiple patients escaping from every one of their facilities. As a concerned citizen she wanted to know how even with the conditional use permit they would be able to verify that it really is what they say it is. Mental health is something that does need to be addressed by the community and a facility should be built but the concern is where that facility should be built. Ms. Leavitt said that it seems like a no-brainer that they would not want those facilities next to schools and daycare centers. She said that this issue needs to be taken care of in zoning and something that does not even get to the point where all of a sudden it is going to be built and the only thing that the citizens can do is to say put up a little higher wall. There do need to be barriers or safety zones for those behavioral institutions.

Kristina Bradley, Gilbert Arizona, came forward. Ms. Bradley said that she agreed 100% with everything that was stated by the two previous speakers. She said that she was involved in the second fight against Saguaro Springs and that they uncovered a significant amount of prior circumstances and legal actions against the CEO and owners of that place. They were not honest. She said that they were very lucky that they pulled out. Ms. Bradley said that she supported the buffers and the use permits.

Patricia Baker, Gilbert Arizona, came forward. She said that she was present for what had been presented and previously and wanted to compare the Banner Gateway numbers. According to a report, Banner Gateway has 177 beds and on its worst month had 23 instances. Ms. Baker said that she asked a representative at Banner Gateway how many patients they see in their ER each month and the response was 5000 patients. Instead of the 9.2% bed rate per incident it is actually .0046% which is less than 5 instances for every 1000 patients that they see. That is one instance per every 215. That is compared to Springstone's best rate which is one instance per every 20 patients. If they had a facility the size of Banner that dealt with the clientele of Springstone, that would be 250 instances per month. Ms. Baker said that she could tell the Planning Commission that the numbers that they had were bad. She said that they need to look at the numbers realistically and make comparisons to hospitals that are of the same variety. She said that the right decision in this case was to define those hospitals separately and make sure that there is a barrier between them, especially schools, day care and anything that deals with little ones.

Chairman Wittmann stated that the Commission was restricted from commenting upon the case currently but the case would be back before them the following month.

#### **PUBLIC HEARING (CONSENT)**

Consent Public Hearing items will be heard at one Public Hearing. After the Consent Public Hearing, these items may be approved by a single motion. At the request of a member of the Commission or Staff, an item may be removed from the Consent Calendar and may be heard and acted upon separately. Other items on the agenda may be added to the Consent Public Hearing and approved under a single motion.

**S13-14: BUNGALOWS AT COOLEY STATION REQUEST TO APPROVE A PRELIMINARY PLAT AND OPEN SPACE PLAN FOR THE BUNGALOWS AT COOLEY STATION BY WOODSIDE HOMES, FOR 191 HOME LOTS (LOTS 1-191) ON APPROXIMATELY 24 ACRES OF REAL PROPERTY LOCATED SOUTH AND EAST OF THE SOUTHEAST CORNER OF WADE DRIVE AND VEST AVENUE IN THE SINGLE FAMILY DETACHED (SF-D) ZONING DISTRICT WITH A PLANNED AREA DEVELOPMENT (PAD) OVERLAY ZONING DISTRICT.**